IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

WP(C).No. 1013 of 2007(U)

PETITIONER:

K.P.RAJAGOPALAN NAIR,
KOTTAPPURATHU VEEDU, ANAYADI P.O.,
VIA-SOORANAD, QUILON DISTRICT.
NOW WORKING AS SUPDT., DISTRICT JAIL, TRIVANDRUM

BY ADV. SRI.ISSAC GEORGE

RESPONDENTS:
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1. STATE OF KERALA REPRESENTED BY THE
CHIEF SECRETARY, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, TRIVANDRUM-1.

2. PRINCIPAL SECRETARY, HOME DEPARTMENT (B)
GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
TRIVANDRUM-1.

BY GOVT. PLEADER SHRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

WP(C)No. 1013 OF 2007

Dated this the 11th January, 2007.

JUDGMENT

The petitioner is working as Superintendent, District Jail, Thiruvananthapuram. He was appointed in the Jail Department as per order dated 2.5.1988. Based on the entries made in the S.S.L.C book, the authorities entered the date of birth of the petitioner in the service book. The date thus entered is 3.2.1952. He applied for correction of date of birth in the S.S.L.C book with a delay condonation application. Delay was condoned by the Government as per order passed on 13.8.2002. Subsequently the entries in the S.S.L.C book relating to the date of birth were also corrected. He filed application for correction of date of birth in the service book on 21.2.2005. As per Ext.P4 order passed on 30.8.2005 Government rejected the application stating that the petitioner did not file the application within time. Long thereafter, the petitioner has filed Ext.P6 application on 9.12.2006 seeking for a review of Ext.P4 order. Having not received any reply to the review petition this writ petition has been filed.

2. It is seen that the review petition filed by the petitioner is also out of time. The order sought to be reviewed was passed on 30.8.2005. This being an original

order, the time limit for filing review application is one month only. Hence I am not inclined to direct the Government to pass orders on the review petition. For yet another reason also I am not inclined to grant the reliefs prayed for by the petitioner. As far as government servants in service as on the date of Ext.P5 order dated 30.12.1991 are concerned, the time limit for submitting application for correction of date of birth in the service book is one year unless they come within the first part of paragraph 3 where a period of five years is granted for those who have entered service to apply for correction of date of birth in the service book. Petitioner did not apply within the time allowed. Government is perfectly right in rejecting the application of the petitioner as time barred.

3. Counsel for the petitioner submits that Ext.P5 will not apply to a person like the petitioner because it has got prospective application only and shall not apply to those who are in service as on 30.12.91. I am not able to agree with the above contention of the petitioner. Ext.P5 order is applicable to all government servants who are in service as on the date of Ext.P5. It does not exempt

persons who entered service prior to that. Applications filed by persons in service on and from the date of Ext.P5 will be governed by Ext.P5.

4. The petitioner submits that the Government have not strictly applied the provisions of Ext.P5 to all government servants equally. To illustrate the above submission he has produced Ext.P16 order of the Government by which one Marykutty Joseph was granted the benefit of correcting the service book notwithstanding Ext.P5. On a perusal of Ext.P16 it is seen that the relevant G.O viz., Ext.P5 has not been referred to therein. It is difficult to sustain the orders passed by the Government in the nature of Ext.P16 when the Government is bound to treat all government servants in the matter of correction of entries in the service book equally. The fact that a favouritism has been shown by the Government by passing an order in the nature of Ext.P16 is not a valid ground to seek similar orders from this Court to commit more such violations and illegalities. It will be in the interest of justice that the Government do not pass orders in the nature of Ext.P16 and avoid complaints from government servants that the request for correction of date of birth in the service book

is entertained according to the whims and fancies of the authorities.

Reliefs prayed for by the petitioner are declined. Writ petition is dismissed.

K.K.DENESAN
Judge

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